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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Margaret Motamed

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JAMES TROSINO

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EXAMINER

VIDA, MELANIE M

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,880

Applicant(s)

MOTAMED, MARGARET

Examiner

Melanie M Vida

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed 3/29/04. Claims 1-19 are pending. Claim 20 has been cancelled. The double patenting rejection has been withdrawn in view of the Terminal Disclaimer filed 3/29/04.

Response to Arguments

2. Applicant's arguments, see pages 6-7, filed 3/29/04, with respect to the rejection(s) of claim(s) independent claims 1 and 11 under 35 USC 103 in view of Buchar, US-PAT-NO: 4,618,248 in view of Takase, US-PAT-NO: 5,249,068 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Miyakawa et al. US-PAT-NO: 4,974,098.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-2, 11-12** are rejected under 35 U.S.C. 102(b) as being anticipated by Miyakawa et al. US-PAT-NO: 4,974,098, (hereinafter, Miyakawa).

Regarding, **claim 1**, Miyakawa, as shown in figure 4, depicts the scanner that prevents input light from fluctuating due to the trimming lines (24), which reads on “a method for

Art Unit: 2626

automatically calibrating a scanner”, (col. 3, lines 41-45). Further, Miyakawa states that the two strips of the black regions (22 and 23) can be provided in the direction of N on both sides of the original platen by printing or by means of tapes pasted thereon, which reads on “affixing a calibration target to a scanning surface of said scanner;” (col. 3, lines 24-30). Finally, Miyakawa states that by providing the two black regions (22 and 23) on both sides of the original placement region (21), the light from the black regions (22 and 23) constantly enters the dark-time output regions (12 and 13) of the linear sensor (10) respectively when the linear sensor (10) is reading an original placed on the glass original plate (20), which reads on “calibrating said scanner with said calibration target during a normal scan”, (col. 3, lines 35-40).

Regarding, **claim 2**, Miyakawa, as shown in figure 4, depicts black regions (22 and 23) in the direction N on both sides of the original placement region (21) by means of tapes pasted thereon the glass original plate (20), which reads on “said scanner comprises a platen, and wherein said calibration target comprises a width of approximately or equal to a length of or a width of said platen”, (col. 3, lines 24-30, and lines 47-49).

Regarding, **claim 11**, please refer to the corresponding rejection in claim 1.

Regarding, **claim 12**, please refer to the corresponding rejection in claim 2.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 3 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, (hereinafter, Miyakawa) as applied to claim 1 and 11 above, and further in view of Falk, US-PAT-NO: 6,141,120, (hereinafter, Falk).

Regarding, **claim 3**, Miyakawa teaches the scanning calibration method of claim 1, and the scanning calibration apparatus of claim 11, but fails to expressly disclose, “said calibration target comprises a Kodak Gray Strip, an IT8TM target, or an equivalent manufactured calibration target”.

However, Falk, as shown in figure 6, depicts a diagram of a gray scale test strip (600), a standard test strip such as Kodak test strip produced by the Eastman Kodak Corp. of Rochester, N.Y. comprising a plurality of gray scale patches (601), which reads on “wherein said calibration target comprises a Kodak Gray Strip, an IT8TM target, or an equivalent manufactured calibration target”, (col. 5, lines 66 through col. 6, lines 5).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s scanning calibration method with Falk’s Kodak test strip (600).

One of ordinary skill in the art would have been motivated to use the Kodak test strip (600) because the standard test strip (600) is scanned simultaneous with the scanning of calibration image (500) so that the test strip data (216) and the scanned calibration image (215) are stored in the same data structure (218), given the express suggestion of Falk, (col. 6, lines 13-18).

Regarding, **claim 13**, please refer to the corresponding rejection in claim 3.

7. **Claims 4-5 and 14-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, (hereinafter, Miyakawa) as applied to claim 1 and 11 above, and further in view of Bryant, US-PAT-NO: 6,462,772 B1, (hereinafter, Bryant).

Regarding, **claim 4**, Miyakawa teaches the scanning calibration method in claim 1 and the scanning calibration apparatus of claim 11, but fails to expressly disclose, “the calibration target comprises a photograph on photographic paper”.

However, Bryant, as shown in figure 5, depicts a bar code on APS film, which reads on “the calibration target comprises a photograph on photographic paper”, (col. 4, lines 9-11).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s scanning calibration method with Bryant’s calibration target on photographic paper.

One of ordinary skill in the art would have been motivated to use Bryant’s calibration target on photographic paper because there is a need for a calibration arrangement for a photographic film scanner which can adjust the calibration settings for scanning operations that will compensate for changes in system conditions throughout the scanning operation, given the express suggestion of Bryant, (col. 2, lines 4-8).

Regarding, **claim 5**, Miyakawa teaches the scanning calibration method in claim 1 and the scanning calibration apparatus of claim 11, but fails to expressly disclose, “the calibration target strip comprises a dye sublimation print on photographic paper or paper equivalent to photographic”.

However, Bryant, as shown in figure 5, depicts a bar code on APS film, which reads on ““the calibration target strip comprises a dye sublimation print on photographic paper or paper equivalent to photographic””.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s scanning calibration method and apparatus with Bryant’s calibration target (i.e. bar code) on APS film (i.e. photographic film) because there is a need for a calibration arrangement for a photographic film scanner which can adjust the calibration settings for scanning operations that will compensate for changes in system conditions throughout the scanning operation, given the express suggestion of Bryant, (col. 2, lines 4-8).

Regarding, **claim 14**, please refer to the corresponding rejection in claim 4.

Regarding, **claim 15**, please refer to the corresponding rejection in claim 5.

8. **Claims 6-7 and 16-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, as applied to claim 1 and 11 above, and further in view of Horowitz et al. US-PAT-NO: 4,525,071, (hereinafter, Horowitz) and further in view of Gray et al. US-PAT-NO: 6,028,681, (hereinafter, Gray).

Regarding, **claim 6**, Miyakawa teaches the scanning calibration method and apparatus of claims 1 and 11, respectively, but fails to expressly disclose, “wherein said calibration target comprises a plastic material”.

However, Horowitz teaches of attaching a plastic coated bar code label (356), as depicted in figure 4 to a storage bin (4), which reads on “wherein said calibration target comprises a plastic material” (col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa's scanning calibration method and apparatus with a calibration target made of plastic material, as per Horowitz.

One of ordinary skill in the art would have been motivated to use a plastic material as a calibration target because bar code labels are plastic coated for maximum durability, given the express suggestion of Horowitz, (col. 7, lines 39-41).

Miyakawa in view of Horowitz do not expressly disclose, "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner when the covering is removed from the adhering surface".

However, Gray, as shown in figure 4, depicts a fragmentary perspective of a scanner with an adhesively attachable light monitor window tab, which reads on "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner", (col. 3, lines 3-6; col. 8, lines 55-67 through col. 9, lines 1-35). Further, Gray teaches that the that the cover (190) is coated on its side facing the under surfaces (181; 184) with a layer of weak adhesive bond, such that the protective cover (190) can be easily removed during the assembly of the light window tab (140) to the top of the carriage assembly (122), which reads on "when the covering is removed from the adhering surface", (col. 9, lines 8-13).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa in view of Horowitz, (i.e. scanning calibration method and apparatus and plastic coated barcode) with Gray's adhesive light window tab (140).

One of ordinary skill in the art would have been motivated to use an adhesive light window tab (140) to compensate for problems associated with a painted strip, given the express suggestion of Gray, (col. 2, line 10).

Regarding, **claim 7**, please refer to the corresponding rejection in claim 6, and further wherein Gray teaches that the under surface of the tab (40) can be textured coat of light reflective paint, which reads on a dye sublimation print, and further reads on a dye sublimated material, (col. 8, lines 45-48).

Regarding, **claim 16**, please refer to the corresponding rejection in claim 6.

Regarding, **claim 17**, please refer to the corresponding rejection in claim 7.

9. **Claims 8 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, as applied to claim 1 and 11 above, and further in view of Gray et al. US-PAT-NO: 6,028,681, (hereinafter, Gray).

Regarding, **claim 8**, Miyakawa teaches the method and apparatus for calibrating a scanner, but fails to expressly disclose, “providing a calibration target having a protective coating”.

However, Horowitz teaches of attaching a plastic coated bar code label (356), as depicted in figure 4 to a storage bin (4), which reads on “providing a calibration target having a protective coating” (col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s scanning calibration method and apparatus with a calibration target having a protective coating, as per Horowitz.

One of ordinary skill in the art would have been motivated to use a plastic material as a calibration target because bar code labels are plastic coated for maximum durability, given the express suggestion of Horowitz, (col. 7, lines 39-41).

Regarding, **claim 18**, please refer to the corresponding rejection in claim 8.

10. **Claims 9 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, as applied to claim 1 and 11 above, and further in view of Gray et al. US-PAT-NO: 6,028,681, (hereinafter, Gray).

Regarding, **claim 9**, Miyakawa teaches the method and apparatus for calibrating a scanner in claims 1 and 11, respectively, but fails to expressly disclose, “wherein the calibration target comprises decal paper”.

However, Gray teaches of a tab (140), which reads on “wherein the calibration target”, is attached to the surface (181) using the adhesive material (188), which reads on “comprises decal paper”, (col. 8, line 65 through col. 9, line 1).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s method and apparatus for calibrating a scanner with Gray’s decal paper.

One of ordinary skill in the art would have been motivated to use decal paper to compensate for problems associated with a painted strip, given the express suggestion of Gray, (col. 2, line 10).

11. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa et al. US-PAT-NO: 4,974,098, as applied to claim 1 above, and further in view of Horowitz et al. US-

PAT-NO: 4,525,071, (hereinafter, Horowitz) and further in view of Ryu, US-PAT-NO: 6,295,386, (hereinafter, Ryu).

Regarding, **claim 10**, Miyakawa teaches the method scanner calibration method in claim 1, but fails to expressly disclose, “a plastic, non-reflective sleeve”

However, Horowitz teaches of attaching a plastic coated bar code label (356), as depicted in figure 4 to a storage bin (4), which reads on “a plastic, non-reflective sleeve”, (col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa’s scanning calibration method with a plastic, non-reflective sleeve, as per Horowitz.

One of ordinary skill in the art would have been motivated to use a plastic non-reflective sleeve because bar code labels are plastic coated for maximum durability, given the express suggestion of Horowitz, (col. 7, lines 39-41).

Miyakawa in view of Horowitz do not expressly disclose, “sleeve located proximate to a scanning surface for fixedly holding said calibration target in said sleeve”.

However, Ryu, as shown in figure 1, depicts a reference sticker that is attached adhesively to the scanner and the reference sticker is clean by attaching a cover, which reads on “sleeve located proximate to a scanning surface for fixedly holding said calibration target in said sleeve” (col. 1, lines 41-46).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Miyakawa in view of Horowitz, image scanning calibration method with Ryu’s plastic reference sticker as the calibration target.

One of ordinary skill in the art would have been motivated to use a plastic reference sticker in order to correct the image errors according to conventional prior art, given the express suggestion of Ryu, (col. 1, lines 40-42).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hellstrom, US-PAT-NO: 5,343,296, optical scanner with self contained standardization means, see figure 4 and col. 4, lines 25-58.

Chiang, US-PAT-NO: 6,011,632, see item (80) in figure 3, and col. 2-3.

Lee et al. US-PAT-NO : 6,178,015 B1, a flatbed scanner with an optical ruler (i.e. calibration reference) located on the scanner transparent window.

Ko-Chien, US-PAT-NO: 6,388,778 B1, an image scanner using one scanner pass to perform a preview scan and a formal scan.

Edgar et al. US-PAT-NO : 5,604,601, simultaneously scans two reference grids (353 and 354) flanking the original image to reduce mechanical jitter, where the thin strips have an adhesive to attach to the flanges (456 and 457) a part of the scanner, (col. 14, lines 46-67 and col. 16, lines 25-30).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie M Vida whose telephone number is (703) 306-4220.

The examiner can normally be reached on 8:30 am 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on (703) 305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie M Vida
Examiner
Art Unit 2626

MMV
mmv

June 15, 2004

KA Williams
KIMBERLY WILLIAMS
SUPERVISORY PATENT EXAMINER